

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ESTHER ZICHERMAN,	:	
	:	
Plaintiff,	:	
	:	Civil Action No. 7:24-cv-9535
-against-	:	
	:	
LOANDEPOT, INC.,	:	
	:	
Defendant.	:	
	:	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, defendant loanDepot.com, LLC (incorrectly identified as loanDepot, Inc.) (“Defendant”), by and through its counsel, Day Pitney LLP, hereby removes the civil action pending in the Supreme Court of the State of New York, County of Rockland, Index No. 036637/2024 (the “State Court Action”), and all claims and causes of action therein, to the United States District Court for the Southern District of New York. The grounds for removal are as follows:

Service

1. On or about October 31, 2024, Plaintiff Esther Zicherman (“Plaintiff”) initiated the State Court Action by filing a complaint (the “Complaint”) alleging that Defendant violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”). Defendant was the named mortgagee on a mortgage executed by Plaintiff, pursuant to which Plaintiff made monthly payments. Plaintiff alleges that Defendant misreported to credit reporting agencies that Plaintiff was more than 30-days late on her December 2021 mortgage payment, thereby violating the FCRA.

2. Defendant received a copy of the Summons and Complaint on or about November 15, 2024 but, upon information and belief, Plaintiff has yet to effectuate proper service of process in accordance with the New York Civil Practice Law and Rules.

3. This Notice of Removal was timely filed in this Court on December 13, 2024.

Pleadings and Notice to State Court

4. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings and orders filed in the State Court Action are attached to this Notice as Exhibit A.

5. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be promptly served upon Plaintiff and promptly filed with the Rockland County Clerk's Office.

Timeliness of Removal

6. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed, because Defendant has not been properly served with Plaintiff's Summons and Complaint. Even if service was effectuated, this Notice of Removal is filed within 30 days of Defendant's receipt of the Summons and Complaint.

7. No prior removal of this action has been attempted.

8. This action is within the jurisdiction of the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1331, which provides that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

9. The sole claim for relief in the Complaint is founded on federal law, namely the FCRA, codified at 15 U.S.C. § 1681 *et seq.* The Complaint does not contain any other causes of action.

Venue

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because this Court is the “district court of the United States for the district and division embracing” Rockland County, New York, the place where the State Court Action is pending.

11. Accordingly, the State Court Action may be properly removed to this Court pursuant to 28 U.S.C. § 1441.

12. Defendant reserves all rights, claims and defenses, including, but not limited to, defenses based on service of process.

Respectfully submitted,

Dated: New York, New York
December 13, 2024

DEFENDANT LOANDEPOT.COM, LLC

By: /s/ Christina A. Livorsi
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Counsel for Defendant loanDepot.com, LLC

CERTIFICATE OF SERVICE

I hereby certify that, on December 13, 2024, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Christina A. Livorsi
Christina A. Livorsi